

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed October 6, 2003. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **I. Claim Rejections - 35 U.S.C. § 102(a)**

#### **A. Statement of the Rejection**

Claims 12, 13, 16, and 19 have been rejected under 35 U.S.C. § 102(a) as being anticipated by Smith Dewey (U.S. Pat. No. 6,229,430). The rejection states that Smith Dewey discloses Applicant's invention as recited in the above-identified claims. Applicant respectfully traverses this rejection.

#### **B. The Smith Dewey Reference**

Smith Dewey discloses a system and method for alerting a user. More particularly, Smith Dewey describes an alarm clock whose alarm can be automatically rescheduled in accordance with particular occurring conditions, such as traffic and/or weather conditions. Smith Dewey, column 1, lines 65-67.

Smith Dewey describes an embodiment of her alarm clock in relation to Figure 1. As shown in that figure, the alarm clock ("alert system") 100 includes an input 102 through which the user may input desired alarm scheduling information and a processor 106 that receives the selections and implements the alarm schedule. As is described by Smith Dewey, the alarm clock input 102 may be "a keypad, data card, or any other conventional signal input. Input 102 may also receive the alarm conditions from a personal computer ("PC") or personal data assistant ("PDA") 116 as show in FIG. 1." Smith Dewey, column 3, lines 9-13.

In addition to receiving alarm schedules entered using the input 102, the processor 106 can also receive information from various sources and use such information to evaluate whether the alarm schedule is to be adjusted. Smith Dewey, column 3, line 57 to column 4, line 1. An example of such operation is described in column 4. As is explained by Smith Dewey, the user, via the alarm clock input 102, sets a first alert time as well as the alarm conditions that are to be used to adjust the time at which an alarm will sound. Smith Dewey, column 4, lines 24-32. As an example, one such condition is that it is snowing. Smith Dewey, column 4, lines 32-34. In such a case, the alarm is rescheduled (“recomputed”) to an earlier time, relative to the first alert time selected by the user and input via the alarm clock input 102, so as to afford the user more time to travel to work. Smith Dewey, lines 35-48. The information as to whether it is or is not snowing could be, for instance, obtained from a web site (e.g., “weather.com”). Smith Dewey, column 4, lines 33-35.

In view of the above, the user enters a desired alarm time directly into the alarm clock using the input 102 and that alarm time is automatically adjusted, in accordance with pre-determined selections, when certain predefined conditions are satisfied. However, it is notable that Smith Dewey does not describe either of (i) enabling remote programming of the alarm clock by the user via a network, or (ii) collecting audio data for use as the alarm sound via a network.

### **C. Discussion of the Rejection**

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of *each element* of the claim under consideration.” W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)(emphasis added). Therefore, every claimed feature of the claimed invention must

be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(a).

In the present case, not every feature of the claimed invention is represented in the reference. With reference first to independent claim 12, Smith Dewey clearly does not teach or suggest “receiving an alarm schedule created by a user and sent from a remote location via a network” as is required by claim 12. As described above, Smith Dewey only discloses receiving an alarm schedule input directly into the alarm clock input 102 (i.e., not via a network), and receiving information that is used to determine whether to automatically adjust that alarm schedule in view of prevailing conditions. Although the collected information can, in some embodiments, be collected from a network source such as a web site, nowhere does Smith Dewey discuss receiving an alarm schedule via a network. The distinction is significant. In particular, the Smith Dewey alarm clock is not remotely programmable by the user.

Given that the Smith Dewey alarm clock does not receive alarm schedules via a network, it follows that the Smith Dewey alarm clock does not receiving alarm schedules via the Internet as required by claim 13.

With reference next to independent claim 16, Smith Dewey fails to teach or suggest “means for receiving an alarm schedule created by a user and sent from a remote location via a network” for reasons similar to those identified above in relation to independent claim 12.

Regarding independent claim 19, Smith Dewey also fails to teach or suggest an alarm clock that includes “a control module configured to receive alarm scheduling data generated by a user and sent by the user to the alarm clock from a remote location via a network.” Again, the Smith Dewey alarm clock only receives alarm scheduling data generated by the user with the input 102. Although various traffic and weather

information that is used to potentially reset an alarm may be obtained via a network, no alarm scheduling data generated by a user is obtained via a network. Therefore, Smith Dewey's alarm clock cannot be remotely programmed by the user.

Due to these clear shortcomings of the Smith Dewey reference, Applicant respectfully asserts that Smith Dewey does not anticipate Applicant's claims. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

## **II. Claim Rejections - 35 U.S.C. § 103(a)**

### **A. Statement of the Rejection**

Claims 1-11, 14-15, 17-18, and 20-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith Dewey. The rejection alleges that Smith Dewey discloses Applicant's invention substantially as claimed and concludes that Applicant's claims would have been obvious to a person having ordinary skill in the art. Applicant respectfully traverses this rejection.

### **B. Discussion of the Rejection**

As acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a proper case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. See In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Accordingly, to make a proper case for obviousness, there must be some prior art teaching or established knowledge that would suggest to a person having ordinary skill in the pertinent art to fill the voids apparent in the applied

reference. It is respectfully asserted that no such case has been made in the outstanding Office Action.

With regard first to independent claim 1, Smith Dewey does not teach "receiving from a user via a network an identification of a date and time at which an alarm is desired by the user" as is required by claim 1. Instead, as described above, Smith Dewey only teaches receiving an alarm schedule entered directly into the alarm clock input 102. Although various information, such as a traffic or weather information, may be obtained by the Smith Dewey alarm clock from web sites, no alarm schedules are obtained via a network. Therefore, Smith Dewey's alarm clock cannot be remotely programmed by the user. Notably, Smith Dewey contains no suggestion that such alarm schedules could be provided to the alarm clock via a network. It appears that Smith Dewey simply never contemplated programming the alarm clock remotely. Without an appropriate suggestion, it would not have been obvious to a person having ordinary skill in the art in view of the Smith Dewey disclosure to receive from a user via a network an identification of a date and time at which an alarm is desired by the user.

Given that claims 2-7 depend from independent claim 1, each of claims 2-7 is believed to be allowable for at least the same reasons that claim 1 is allowable. In addition, however, several limitations contained in claims 2-7 comprise independent grounds for allowability. For example, Smith Dewey is silent about "receiving the identification via a web site" as is required by claim 2. Again, no alarm schedules are obtained via a network. In addition, Smith Dewey fails to teach or suggest an alarm that "comprises audio data obtained from a database remote from the alarm clock" as in claim 5, "transmitting the audio data to the alarm clock" as in claim 6, or "transmitting an identification of the location of the audio data to the alarm clock" as

in claim 7. As to those limitations, Smith Dewey says nothing about using a separate source for the audio data used to generate alarms. Although Smith Dewey discusses “advertising material,” no mention is made as to using such material as an alarm.

With regard to claims 8-11, attention is directed to the discussion of independent claim 1 and its dependents, which contain limitations that are similar to limitations contained in claims 8-11.

Regarding dependent claims 14-15, 17-18, and 20-22, those claims are allowable over Smith Dewey at least for the same reasons that independent claims 12, 16, and 19, respectively, are allowable over Smith Dewey (see discussion of rejection under 35 U.S.C. § 102(a)). As a further matter, however, Applicant notes that Smith Dewey contains no teaching and no suggestion whatsoever for providing an “embedded network server” in an alarm clock as is required by claim 22. Moreover, given that Smith Dewey’s alarm clock is not intended for remote programming, there simply would not have been motivation for providing an embedded server in the Smith Dewey alarm clock. Therefore, such a feature would be unobvious for the Smith Dewey alarm clock, even in view of a reference (which has not been identified) that anticipates embedded servers.

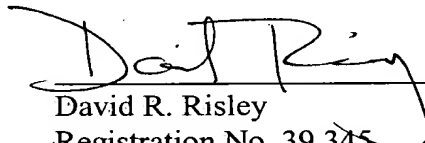
### **III. New Claims**

As identified above, claims 23 and 24 have been added into the application through this response. Applicant respectfully submits that these new claims describe an invention novel and unobvious in view of the prior art of record and, therefore, respectfully requests that these claims be held to be allowable.

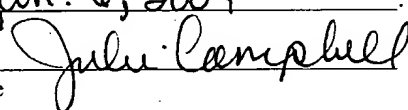
### CONCLUSION

Applicant respectfully submits that pending claims 1-24 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

  
David R. Risley  
Registration No. 39,345

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Alexandria, Virginia 22313-1450, on

Jan. 6, 2004  
  
Signature